



ORIGINAL

ORDINANCE NO. 29, 2022

AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE THE AMENDMENTS TO THE VEBA TRUST AND VEBA PLAN FOR THE PURPOSE OF AMENDING THE PLAN COVERAGE AND DECLARING AN EMERGENCY.

WHEREAS, in 1961 the Village of St. Bernard, formerly known as the City of St. Bernard (hereinafter “St. Bernard”), enacted Ordinance 4-1961, wherein St. Bernard would provide its then present, active, full-time employees at the time of their retirement, health care coverage similar to that provided to St. Bernard’s active employees, provided that the employee completed five years of continuous, active, full-time service immediately preceding retirement, and was eligible for retirement benefits under one of two State pension programs: the state police and fire program or the public employees’ retirement system (“PERS”); and

WHEREAS, on June 7, 1985, St. Bernard, through Ordinance No. 24, 1985, directed the Mayor to execute documents to establish a trust fund in accordance with Section 501(c)(9) of the Internal Revenue Code (hereinafter the “1985 VEBA Trust,” sometimes referred to as the “C-9 Trust”), for the purpose of reimbursing qualified St. Bernard retirees and their dependents for certain specified health care costs not paid for by the State’s insurance plan, in accordance with the terms of the St. Bernard VEBA Plan; and

WHEREAS, on November 6, 2007, the United States District Court for the Southern District of Ohio, Western Division, entered a Consent Decree and Final Judgment in the case of *Mayborg v. City of St. Bernard*, which provided in part:

4. The City shall not terminate, cancel or take any adverse action against the C-9 Trust Fund plan or its benefits at any time. The City does reserve the right and power to amend the C-9 Trust Fund plan. However, no amendment shall deprive any current or future eligible retiree or beneficiary of any benefit to which he or she is entitled under the C-9 Trust Fund plan

and

WHEREAS, pursuant to the terms of the reservation of the right to amend as provided in the Consent Decree and Final Judgment and as authorized by the 1985 VEBA Trust, St. Bernard subsequently amended the 1985 VEBA Trust document in its entirety, replacing it with the “Amendment of Trust” document authorized by Ordinance 27, 2009, adopted on June 18, 2009 (hereinafter the “VEBA Trust 2009”); and

WHEREAS, pursuant to the terms of the reservation of the right to amend as provided in the Consent Decree and Final Judgment, St. Bernard has negotiated with its employees regarding the eligibility of subsequently hired employees; and

WHEREAS, St. Bernard, through Ordinance No. 27, 1989, adopted the First Amendment to the St. Bernard VEBA Plan, dated November 25, 1986, and adopted the Second Amendment to the St. Bernard VEBA Plan, dated May 3, 1989; and through Ordinance No. 54, 1992, adopted the Third Amendment to the St. Bernard VEBA Plan, dated December 3, 1992; and through Ordinance No. 23, 1993, adopted the Fourth Amendment to the St. Bernard VEBA Plan, dated May 20, 1993; and through Ordinance No. 14, 1994, adopted the Fifth Amendment to the St. Bernard VEBA Plan dated February 17, 1994; and through Ordinance No. 15, 2008, adopted

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the Sixth Amendment to the St. Bernard VEBA Plan dated April 3, 2008;
and

WHEREAS, St. Bernard desires to amend Section 1.14, "Policy," of the St. Bernard VEBA Plan to reflect the changes made by the State in how the State funds primary medical coverage for eligible retirees who are members of one of two State pension programs, the State police and fire program or its public employees' retirement; and

WHEREAS, St. Bernard desires to amend Section 1.03, "Beneficiary(ies)," of the VEBA Trust 2009 and Section 1.07, "Beneficiary," of the St. Bernard VEBA Plan to clarify that a beneficiary must be a beneficiary of the Employee as of the date of the Employee's retirement; and

WHEREAS, St. Bernard desires to amend Section 1.06, "Employee," of the VEBA Trust 2009 and Section 1.05, "Employee," of the St. Bernard VEBA Plan to reflect terms previously agreed to by the Employees in collective bargaining; and

WHEREAS, St. Bernard, desires to amend Section 5.01, "Benefits," of the St. Bernard VEBA Plan; now therefore

BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF ST. BERNARD, STATE OF OHIO:

Section 1. That the Mayor is hereby authorized to amend the VEBA Trust 2009 document by the First Amendment to the St. Bernard VEBA Trust as set forth in the attached Exhibit "A".

Section 2. That the Village of St. Bernard, by and through the Mayor, hereby adopts the First Amendment to the St. Bernard VEBA Trust as set forth in the attached Exhibit "A".

Section 3. That the Mayor is hereby authorized to amend the St. Bernard VEBA Plan by the Seventh Amendment to the St. Bernard VEBA Plan as set forth in the attached Exhibit "B".

Section 4. That the Village of St. Bernard, by and through the Mayor, hereby adopts the Seventh Amendment to the St. Bernard VEBA Plan as set forth in the attached Exhibit "B".

Section 5. This Ordinance is hereby declared to be an emergency measure necessary to the immediate preservation of the public peace, health, and safety. The reason for the emergency is that it is Council's desire to have the St. Bernard VEBA Trust 2009 document and VEBA Plan amended as soon as possible to extend the benefits thereunder to the eligible retirees. Therefore, this Ordinance shall take effect immediately by and upon its passage, and the approval of two-thirds of the members of said Council. However, this Ordinance shall take effect on the earliest date provided by law if approved by no more than the majority of the members of Council and in that event the emergency provisions herein are set at naught.

Passed this 27th day of October, 2022.



President of Council

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ATTEST:

Carole Stegman
Clerk of Council



ORIGINAL

Approved this 27th day of October, 2022.

[Signature]
Mayor

I, CAROLINE STEGMAN, CLERK OF COUNCIL, VILLAGE OF ST. BERNARD, STATE OF OHIO, DO HEREBY testify that the publication of Ordinance No. 29, 2022, was made by posting true copies of the same in the most public places designated by Council: City Hall, Vine Street and Washington Avenue; for a period of fifteen (15) days or more commencing October 27th, 2022.

ATTEST: Carole Stegman DATE October 27th 2022
Clerk of Council

Approved as to form [Signature] Date 27 Oct 2022
Director of Law

EXHIBIT "A"

**FIRST AMENDMENT TO THE
VILLAGE OF ST. BERNARD VEBA TRUST 2009**

This First Amendment to the Village of St. Bernard VEBA Trust 2009 document is adopted on this _____ day of October 2022, by the Village of St. Bernard, an incorporated Ohio Municipality.

WHEREAS, on June 7, 1985, Employer adopted a certain voluntary employee benefit plan established under I.R.C. Section 501(c)(9), effective as of May 15, 1985; and

WHEREAS, on June 18, 2009, Employer subsequently amended the 1985 VEBA Trust in its entirety, replacing it with the Amendment of Trust document authorized by Ordinance 27, 2009 (hereinafter the "VEBA Trust 2009"); and

WHEREAS, Employer desires to amend Section 1.03, "Beneficiary(ies)," of the VEBA Trust 2009 document to clarify that only those persons who were dependents of the Employee as of the date of the Employee's retirement may be eligible to be beneficiaries; and

WHEREAS, Employer desires to amend Section 1.06, "Employee," of the 2009 VEBA Trust to reflect terms previously agreed to by the Employees in collective bargaining; and

NOW, THEREFORE, the Village of St. Bernard VEBA Trust 2009 document is hereby amended as follows:

Section 1.03 of the VEBA Trust 2009 shall be amended to read:

1.03 "Beneficiary(ies) " shall mean a person who, as of the date of the Employee's retirement from full time work with the Employer, is eligible to receive Benefits under the Plan, as a dependent of the Employee, due to the dependent's meeting the eligibility requirements of the Plan.

Section 1.06 of the VEBA Trust 2009 shall be amended to read:

1.06 "Employee" shall mean a person who:

- a) ceased to be employed full time by the Employer by reason of retirement, including early retirement due to disability, and
- b) who worked, continuously in a full-time capacity, for Employer for a minimum of five years prior to retirement, and
- c) who began that full time employment (i.e., Date of Hire) with Employer:
 - 1) on or before December 31, 2007, for the Fire Department, or
 - 2) on or before December 31, 2009, for the Police Department, Service Department, and City Hall employees.

All other sections of the St. Bernard VEBA Trust 2009 document not specifically amended herein are ratified and reaffirmed.

IN WITNESS WHEREOF, the Employer has caused this **First Amendment To The Village Of St. Bernard VEBA Trust 2009** to be executed on this _____, day of October, 2022.

Witness:

VILLAGE OF ST. BERNARD

By: _____

Jonathan Stuchell, Mayor

EXHIBIT "B"

**SEVENTH AMENDMENT TO THE
VILLAGE OF ST. BERNARD VEBA PLAN**

This Seventh Amendment to the Village of St. Bernard VEBA Plan is adopted on this _____ day of October 2022, by the Village of St. Bernard, an incorporated Ohio Municipality.

WHEREAS, on June 7, 1985, Employer adopted a certain voluntary employee benefit plan established under I.R.C. Section 501(c)(9), effective as of May 15, 1985; and

WHEREAS, Employer desires to amend the VEBA Plan as authorized by Section 7.01 of said Plan for the purpose of bring the Plan into alignment with the VEBA Trust 2009, update outdated terms, and restructure Eligible Expenses and Calendar Year dollar amounts.

NOW, THEREFORE, the Village of St. Bernard VEBA Plan is hereby amended as follows:

Section 1.07, "Beneficiary," of the St. Bernard VEBA Plan shall be amended to read:

1.07 "Beneficiary(ies)" shall mean a person who, as of the date of the Employee's retirement from full time work with the Employer, is eligible to receive Benefits under the Plan, as a dependent of the Employee, due to the dependent's meeting the eligibility requirements of the Plan.

Section 1.05, "Employee," of the St. Bernard VEBA Plan shall be amended to read:

1.05 "Employee" shall mean a person who:

a) ceased to be employed full time by the Employer by reason of retirement, including early retirement due to disability, and

b) who worked, continuously in a full-time capacity, for Employer for a minimum of five years prior to retirement, and

c) who began that full time employment (i.e., Date of Hire) with Employer:

1) on or before December 31, 2007, for the Fire Department, or

2) on or before December 31, 2009, for the Police Department, Service Department, and City Hall employees.

Section 1.14, "Policy," of the St. Bernard VEBA Plan shall be amended to read:

1.14 "Policy" shall mean the primary medical insurance plan procured by the retired employee for him or herself as the policy holder or as a covered dependent on a spouse's primary medical insurance plan.

Section 5.01, "Benefits," of the St. Bernard VEBA Plan shall be amended to read:

5.01 Benefits. Benefits provided hereunder shall consist of self-insurance for the uninsured portion of the expenses covered by the primary medical Policy, including co-payments, and for prescription drugs and allergy shots (both the serum and administration thereof) whether covered by the primary medical Policy or not, up to a maximum of \$800.00 per Plan Year for each Participant.

All other sections of the St. Bernard VEBA Plan not specifically amended herein are ratified and reaffirmed.

IN WITNESS WHEREOF, the Employer has caused this **Seventh Amendment To The Village Of St. Bernard VEBA Plan** to be executed on this _____ day of Oct, 2022.

Witness:

VILLAGE OF ST. BERNARD

By: _____

Jonathan Stuchell, Mayor